IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.8.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.27287 of 2007

Tvl. P.K.Doraiswamy Chettiar Co.,
rep. by its Partner V.Balasubramaniam,
2, Pillayar Koil Street,
Katpadi, Gudiyatham Taluk,
Vellore District .. Petitioner

vs.

1. The Designated Authority cum
   Deputy Commissioner (CT),
   Vellore Division,
   C.T.Buildings,
   Vellore - 632 001.

2. The Deputy Commercial Tax Officer,
   Gudiyatham East Assessment Circle,
   Gudiyatham, Vellore District. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records of the first respondent in RC.C3 16694/06, dated 28.4.2007, and quash the same as illegal, arbitrary and against the principles of natural justice and further to direct the first respondent to issue the certificate of Settlement of Arrears in Form V as per Section 8 of The Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2006, forthwith.

For petitioner : Mr.K.Soundara Rajan
For respondents : Mr.Haja Nazirudeen
Special Government Pleader (Tax)

O R D E R

Mr.Haja Nazirudeen, the learned Special Government Pleader (Tax), takes notice for the respondents.

2. With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final disposal.

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3. It is submitted that the petitioner is a registered dealer under the Tamil Nadu General Sales Tax Act, 1959, and the Central Sales Tax Act, 1956, and it is an assessee on the files of the second respondent.

4. The main grievance of the petitioner is that without giving an opportunity under Section 8 of The Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2006, a final order have been passed in RC.C3 16694/06, dated 28.4.2007.

5. The learned counsel appearing on behalf of the petitioner has submitted that before the impugned order had been passed by the first respondent, the petitioner ought to have been given an opportunity, under Section 8 of The Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2006.

6. The learned Special Government Pleader (Tax), appearing on behalf of the respondents, has submitted that the petitioner would be given an opportunity in accordance with Section 8 of The Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2006. The learned Special Government Pleader (Tax) has further submitted that the first respondent may be directed to pass appropriate orders, in accordance with law, after giving an opportunity to the petitioner, under Section 8 of The Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2006.

7. On such submissions being made by the learned Special Government Pleader (Tax), the impugned order passed by the first respondent in RC.C3 16694/06, dated 28.4.2007, is quashed, directing the first respondent, to pass appropriate orders, on merits and in accordance with law, after giving necessary opportunity to the petitioner, as provided under Section 8 of The Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2006. Accordingly, the writ petition is partly allowed. No costs. Consequently, connected M.P.No.1 of 2007 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Designated Authority cum
   Deputy Commissioner (CT),
   Vellore Division,
   C.T.Buildings,
   Vellore - 632 001.

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2. The Deputy Commercial Tax Officer,
   Gudiyatham East Assessment Circle,
   Gudiyatham, Vellore District.

+ One cc to Special Govt Pleader SR 51275

+ One cc to Mr. K. Soundararajan, Advocate sR 51804

KK (co)

sg 23/8/07

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